

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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**ORDER**  
20-CV-5446 (EK) (LB)

GILBERT TIMSIT,

Plaintiff,  
-against-

ZTVI ZEV SCHWARTZ, et al.,

Defendants.

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Eric Komitee, United States District Judge:

Defendant's motion for a one-week adjournment of the hearing on the preliminary injunction is granted. Defendants' response to the Order to Show Cause is due on December 15. The hearing shall take place telephonically on December 18 at 2:15 p.m. The parties are directed to call 888-808-6929 five minutes before the scheduled start of the hearing and use access code 564-7824.

Among other potential defects, the Complaint does not appear expressly to allege the citizenship of defendant Schwartz, or of each and every individual member of the LLC defendants. See *Carter v. HealthPort Techs., LLC*, 822 F.3d 47, 60 (2d Cir. 2016) (allegation that an LLC "is a citizen of a different state" than plaintiff is deficient "because it contains no allegation as to the identity or citizenship" of the members); *United States Liability Insurance Co. v. M Remodeling*

*Corp.*, 20-CV-1287, ECF No. 4 (E.D.N.Y. Mar. 10, 2020) (rejecting allegation that "it is believed and averred that [the defendant LLC's] members are all New York citizens" as "a conclusory allegation that is inadequate to invoke this Court's diversity jurisdiction"); see also *New Millennium Capital Partners, III, LLC v. Juniper Grp. Inc.*, 2010 WL 1257325, at \*1 (S.D.N.Y. Mar. 26, 2010) ("A complaint premised upon diversity of citizenship must allege the citizenship of natural persons who are members of a limited liability company and the place of incorporation and principal place of business of any corporate entities who are members of the limited liability company."). The Plaintiff is directed to file an affidavit on or before December 15 setting forth factual details sufficient for the Court to determine whether diversity jurisdiction exists.

The Court notes that a group of "Proposed Intervenors" have filed a letter in this case, ECF No. 22, and that their attorney subsequently entered an appearance, ECF No. 25. If the "Proposed Intervenors" are indeed seeking to intervene, they should file a motion pursuant to Fed. R. Civ. P. 24. Absent

such a filing, only the parties will be heard at the December 18 conference.

SO ORDERED.

/s/ Eric Komitee  
ERIC KOMITEE  
United States District Judge

Dated: December 10, 2020  
Brooklyn, New York